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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,705	09/22/2003	Anthony D. Petzillo	D5032-00039	9255

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DUANE MORRIS, LLP  
IP DEPARTMENT  
30 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103-4196

EXAMINER
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GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/667,705	<b>Applicant(s)</b> PETZITILLO, ANTHONY D.	
	<b>Examiner</b> Harry A. Grosso	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 13-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/24/03</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 3 recites the limitation "the spring latch" in the third line. There is insufficient antecedent basis for this limitation in the claim. Claims 4-11 are dependent on claim 3.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Galbreath et al (6,929,146) Galbreath).

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6. Regarding claim 1, Galbreath discloses a container with sidewalls, a bottom, a frame forming a door opening and a door panel hingedly attached on one side of the frame with a closing mechanism disposed along an edge of the frame (Figures 1, 2 and 15, column 2, lines 1-4, column 5, lines 41-56). The door has a gasket (44, Figure 2a, column 2, lines 30-33). The closing mechanism has an intermediate state wherein the door panel is held ajar (column 5, line 57- column 6, line 7).

7. Regarding claim 2, in the intermediate position the closing mechanism would hold the door panel against the gasket, at least at the hinge side, at a sealing pressure less than the operative sealing pressure.

8. Regarding claim 3, the closing mechanism comprises a catch remote from the hinge side for holding the door panel to a frame element (137, Figure 15, column 5, line 57- column 6, line 7).

9. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Tenenbaum (3,281,177).

10. Regarding claim 1, Tenenbaum discloses a container with sidewalls, a bottom, a frame forming a door opening and a door panel hingedly attached on one side of the frame with a closing mechanism disposed along an edge of the frame (Figures 1-5, column 1, line 60, to column 2, line 16). The door has a gasket (34). The closing mechanism has an intermediate state wherein the door panel is held ajar as can be seen in Figure 3 where the cam begins to engage the keeper (24) but the handle is not completely rotated into the locked position.

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11. Regarding claim 2, in the intermediate position the closing mechanism would hold the door panel against the gasket, at least at the hinge side, at a sealing pressure less than the operative sealing pressure.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galbreath in view of Strader (2,288,926).

14. Regarding claim 4, Galbreath discloses the invention except for the catch being spring biased. Strader discloses a similar catch (Figures 1-5) that is spring biased to keep the catch engaged and allow engagement by merely closing of the door. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a spring biased catch as disclosed by Strader in the catch disclosed by Galbreath to keep the catch engaged and allow engagement by merely closing of the door.

15. Regarding claims 5 and 6, Galbreath discloses a door closing mechanism that is brought within range of attachment at the intermediate position and advances the door to the closing position.

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16. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Galbreath in view of Lindley (5,639,129). Galbreath discloses the invention except for the clamping structure along the bottom edge. Lindley discloses a similar container with a door having hinges on one edge, a latching mechanism on a second edge and a clamping structure along the bottom edge (Figures 1-3 and 8, column 4, lines 37-62) that is adjustable to obtain the intermediate span of adjustment that is variable along the bottom edge since the clamping structure has two independent clamping elements and each element can provide a variable amount of clamping action dependent on how far the locking element (65) is inserted into the keeper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a bottom edge clamping structure as disclosed by Lindley in the container disclosed by Galbreath to provide additional securement and positive sealing at the bottom of the door.

17. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tenenbaum in view of Galbreath. Tenenbaum discloses the invention except for a catch to engage the door panel prior to reaching the closing position. Galbreath discloses a closing mechanism comprising a catch remote from the hinge side for holding the door panel to a frame element (137, Figure 15, column 5, line 57- column 6, line 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the catch as disclosed by Galbreath in the closing mechanism as disclosed by Tenenbaum to allow the door to be caught and held in position when being closed until the locking mechanism can be engaged.

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18. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tenenbaum as modified by Galbreath in view of Strader.

19. Regarding claim 4, Tenenbaum as modified by Galbreath discloses the invention except for the catch being spring biased. Strader discloses a similar catch (Figures 1-5) that is spring biased to keep the catch engaged and allow engagement by merely closing of the door. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a spring biased catch as disclosed by Strader in the catch disclosed by Tenenbaum as modified by Galbreath to keep the catch engaged and allow engagement by merely closing of the door.

20. Regarding claims 5 and 6, Tenenbaum as modified by Galbreath and Strader discloses a door closing mechanism that is brought within range of attachment at the intermediate position and advances the door to the closing position.

21. Regarding claim 7, Tenenbaum as modified by Galbreath and Strader discloses the door clamping mechanism of Tenenbaum that comprises a rotatable locking bar with a cam and a manual lever handle extending radially from the locking bar, and the cam is received in a cam pocket when the door panel is in the intermediate position (Figures 3 and 5).

22. Regarding claim 8, Tenenbaum discloses the catch (80) for the lever handle but does not teach the lever handle catch being a spring catch. Strader discloses the use of a spring catch as discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a spring catch as disclosed by Strader in the lever handle catch of Tenenbaum as modified by

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Galbreath and Strader to provide a handle catch that is does not need to be moved out of place manually to latch the handle and automatically latches it when the handle is engaged.

23. Regarding claim 9, the locking bar of Tenenbaum is disposed on an edge of the door parallel to and opposite the hinge axis.

24. Regarding claim 10, Tenenbaum as modified by Galbreath and Strader discloses the claimed invention except for the use of a plurality of cams. It would have been an obvious matter of design choice to use a plurality of cams, since applicant has not disclosed that use of a plurality of cams solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with cam structure disclosed by Tenenbaum.

25. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tenenbaum as modified by Galbreath and Strader in view of Lindley. Tenenbaum as modified by Galbreath and Strader discloses the invention except for the clamping structure along the bottom edge. Lindley discloses a similar container with a door having hinges on one edge and a latching mechanism on a second edge and a clamping structure along the bottom edge (Figures 1-3 and 8, column 4, lines 37-62) that is adjustable to obtain the intermediate span of adjustment that is variable along the bottom edge since the clamping structure has two independent clamping elements and each element can provide a variable amount of clamping action dependent on how far the locking element (65) is inserted into the keeper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the



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use of a bottom edge clamping structure as disclosed by Lindley in the container disclosed by Tenenbaum as modified by Galbreath and Strader to provide additional securement and positive sealing at the bottom of the door.

***Allowable Subject Matter***

26. Claims 13-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anthony Stashick  
Supervisory Patent Examiner  
Art Unit 3781

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